



# THE ATTORNEY GENERAL OF TEXAS

PRICE DANIEL  
ATTORNEY GENERAL

AUSTIN 11, TEXAS

July 16, 1947

Hon. Leslie D. Williams,  
District Attorney,  
21st District of Texas,  
Breham, Texas

Opinion No. V-306

Re: Construction of  
Article 6820  
R. C. S. as to  
travel expenses  
of District At-  
torney.

Dear Sir:

Your request for an opinion on the above captioned subject matter is as follows:

"Will you kindly render me an opinion in connection with the following situation?

"Article 6820 of the Revised Civil Statutes of the State of Texas, provides in part as follows:

"All district Judges and District Attorneys when engaged in the discharge of their official duties in any county in this state other than the county of their residence, shall be allowed their actual and necessary expenses while actually engaged in the discharge of such duties--"

"On April 19th, 1947, I made a trip to Austin to appear before the Board of Pardons and Paroles, and on May 12, 1947, I made a trip to Austin for a conference with the Governor, at the special call of the Governor. Both of these trips were in line of duty in connection with the office of District Attorney of this District. They were both made in the Gaither Lovelady case, which was a death penalty case. The trips were necessary for the reason that it was and is my duty

as District Attorney to follow up applications for clemency for persons convicted of felonies in my court. This is usually done by correspondence, but such procedure is impossible in this case on account of the issues involved and the pressure in connection therewith. The Defendant in this case was a negro and great pressure was being applied by the Society for the Advancement of the Colored People and both the Board of Pardons and the Governor wishes to be in full possession of all facts in the case before passing on the same. I certainly would not have made the trips if I had not thought they were necessary and in line of duty."

Article 6820 of the Revised Civil Statutes is as follows:

"All district judges and district attorneys when engaged in the discharge of their official duties in any county in this State other than the county of their residence, shall be allowed their actual and necessary expenses while actually engaged in the discharge of such duties, not to exceed four dollars per day for hotel bills, and not to exceed four cents a mile when traveling by railroad, and not to exceed twenty cents a mile when traveling by private conveyance, in going to and returning from the place where such duties are discharged, traveling by the nearest practical route. Such officers shall also receive the actual and necessary postage, telegraph and telephone expenses incurred by them in the actual discharge of their duties. Such expenses shall be paid by the State upon the sworn and itemized account of each district judge or attorney entitled thereto, showing such expenses. In districts containing more than one county, such expenses shall never exceed in any one year \$100.00 for each county in the district; provided that no district judge or attorney shall receive more than \$600.00 in any

one year under the provisions of this article. The account for said services shall be recorded in the official minutes of the district court of the county in which such judge or attorney resides, respectively. (Acts 1923,p.50)"

Undoubtedly, this article authorizes you as District Attorney to receive your actual and necessary expenses while actually engaged in the discharge of your official duties in any county in the State other than the county of your residence. We cannot be specific as to items for the reason that you state no items. In Opinion No. Q-30 by this department construing this article with respect to the expense account of a District Attorney, it was said:

"In view of the foregoing authorities it is the opinion of this department, that the District Attorney may collect his actual and necessary expense while actually engaged in discharge of such duties not to exceed the amount prescribed by law."

In the light of the plain language of the statute and its construction in the opinion above cited, we answer your inquiry in the affirmative. You are entitled to charge and receive your actual and necessary expenses while engaged in discharge of your duties in counties outside of your home county, not to exceed, of course, the limitations as to amounts specified in the statute.

SUMMARY

A District Attorney is entitled to be paid all actual and necessary expenses incurred by him in the discharge of his duties in counties outside of his home county not to exceed the limitation as to amounts contained in the statute. Art. 6820, Rev. Civ. Stat.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

APPROVED:

*Price Daniel*

ATTORNEY GENERAL  
OS:wb

by *Ocie Spear*  
Ocie Spear  
Assistant